

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE: YASMIN AND YAZ) 3:09-md-02100-DRH-PMF
(DROSPIRENONE) MARKETING, SALES)
PRACTICES AND PRODUCTS LIABILITY) MDL No. 2100
LITIGATION)

This Document Relates to:

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| <i>Taryn Brezina, et al. v. Bayer HealthCare Pharmaceuticals Inc., et al.</i> ¹ | No. 3:13-cv-10257-DRH-PMF |
| <i>Mallory Brown, et al. v. Bayer Corporation, et al.</i> ² | No. 3:12-cv-10450-DRH-PMF |
| <i>Kimberly Busam, et al. v. Bayer Corporation, et al.</i> ³ | No. 3:12-cv-10690-DRH-PMF |
| <i>Darla Kuehne, et al v. Bayer Schering Pharma AG, et al.</i> ⁴ | No. 3:11-cv-10347-DRH-PMF |
| <i>Rhonda Nelson, et al. v. Bayer Pharma AG, et al.</i> ⁵ | No. 3:11-cv-12271-DRH-PMF |
| <i>Kodi Newell, et al. v. Bayer Pharma AG, et al.</i> ⁶ | No. 3:12-cv-10088-DRH-PMF |
| <i>Shuruk Sliman, et al v. Bayer Schering Pharma AG, et al.</i> ⁷ | No. 3:11-cv-10438-DRH-PMF |
| <i>Moria Webb, et al. v. Bayer Schering Pharma AG, et al.</i> ⁸ | No. 3:11-cv-10434-DRH-PMF |

¹ This Order applies to only plaintiff Kimberly Walker.

² This Order applies to only plaintiff Elizabeth Gorder.

³ This Order applies to only plaintiff Kimberly Busam.

⁴ This Order applies to only plaintiff Hayley Burroughs.

⁵ This Order applies to only plaintiff Kathleen Moreland.

⁶ This Order applies to only plaintiff Diasheena Gabriel.

⁷ This Order applies to only plaintiff Susan Doolos

⁸ This Order applies to only plaintiff Rhonda Skipper.

ORDER REGARDING MOTION TO DISMISS WITH PREJUDICE

HERNDON, Chief Judge:

On June 23, 2014, Bayer filed a motion seeking with prejudice dismissal, of the above captioned plaintiffs' claims. The motion seeks dismissal, pursuant to Case Management Order 60 ("CMO 60"), for failure to submit *any* Claim Package Materials.⁹

Pursuant to the Court's local rules, the plaintiffs had 30 days to file a responsive pleading. None of the above captioned plaintiffs filed a responsive pleading. At the expiration of the responsive pleading deadline, as is required under CMO 60, the motion was considered by Special Master Stephen Saltzburg.¹⁰ On July 25, 2014, Special Master's Saltzburg's report and recommendation relating to the above captioned cases was docketed. Special Master Saltzburg found that the subject plaintiffs failed to comply with the requirements of CMO 60 and recommended that the subject plaintiffs' claims be dismissed with prejudice in accord with the requirements of CMO 60.

⁹ Pursuant to the "Settlement Agreement," Exhibit A to CMO 60, plaintiffs enrolled in the Gallbladder Resolution Program are required to submit to the Claims Administrator all the Claim Package Materials identified in Section 3.03(a) of the Settlement Agreement. Section 3.01 of the Settlement Agreement fixed November 18, 2013 as the deadline for submission of a complete Claims Package. The subject motion asserts that the plaintiffs have failed to comply with this requirement.

¹⁰ Section VIII of CMO 60 "appoints Professor Stephen Saltzburg as Special Master to hear motions to dismiss claims that fail to comply with the terms of the Agreement, and to recommend to this Court rulings on such motions, as specified in the Agreement" (Doc. 2739 p. 8).

In each case, the parties were given 14 days to respond or object to Special Master Saltzburg's report and recommendation. The 14 day deadline for responding or objecting to the Special Master's report has expired. None of the above captioned plaintiffs has responded or objected.

Upon consideration of Bayer's motion to dismiss, the Special Master's report, and the requirements of CMO 60, the Court finds that the above captioned plaintiffs have failed to comply with CMO 60. Accordingly, the Court adopts Special Master Saltzburg's report and recommendation. The above captioned plaintiffs' claims are **DISMISSED WITH PREJUDICE** for failure to comply with the requirements of CMO 60.

SO ORDERED:


Digitally signed by
David R. Herndon
Date: 2014.08.13
11:26:27 -05'00'

Chief Judge
United States District Court

Date: August 13, 2014